

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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|---|---|---|
| WILLIAM CARSON THOMAS, |) | |
| |) | |
| Plaintiff, |) | Civil Action No. 10 - 110E |
| |) | |
| v. |) | District Judge Maurice B. Cohill |
| |) | |
| PENNSYLVANIA STATE POLICE et al. |) | |
| |) | |
| Defendants. |) | |
| |) | |
| |) | |
| |) | |
| |) | |

MEMORANDUM ORDER

On May 6, 2010, the Clerk of Court received a Complaint from Plaintiff William Carson Thomas, an inmate at the State Correctional Institute at Rockview. Plaintiff did not pay the filing fee or file a motion to proceed *in forma pauperis*. The matter was referred to United States Magistrate Judge Susan Paradise Baxter for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges. By Order of Court dated May 27, 2010, Magistrate Judge Baxter directed Plaintiff either to pay the filing fee of \$350.00 to the Clerk of Court or file a motion to proceed *in forma pauperis* with an accompanying account statement by June 16, 2010, or suffer dismissal of the case for failure to prosecute. As of October 7, 2010, Plaintiff had neither paid the filing fee nor filed a motion to proceed *in forma pauperis* with an accompanying account statement.

The Magistrate Judge's Report and Recommendation was signed on October 7, 2010 and filed on October 8, 2010, and recommended that this case be dismissed due to Plaintiff's failure to prosecute [Doc. #3]. Plaintiff was given fourteen (14) days to file any Objections to the Report and

Recommendation [Doc. #3]. Plaintiff timely filed a document titled “The Closure” on October 20, 2010, which we are treating as an Objection by the Plaintiff to the Report and Recommendation.

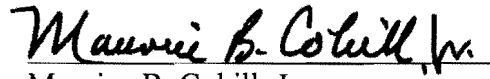
In the Plaintiff’s Objection to the Report and Recommendation, Plaintiff states “I have not ignored and I was not aware of the time that has went by to file claim.” Objection, p. 1. This is a legitimate basis for failing to prosecute this matter. As stated in the Report and Recommendation, “[a]pplying the Poulis factors to the present matter, . . . [s]ince the filing of this matter, Plaintiff has taken none of the necessary first steps to prosecute this case. Further, Plaintiff has failed to comply with an order of this Court. Plaintiff is proceeding *pro se* and therefore bears all of the responsibility for any failure in the prosecution of his claims.” Report and Recommendation, p. 2.

Rule 72 of the Federal Rules of Civil Procedure provides, in pertinent part “the district court may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.” Fed.R.Civ.P. 72(b). After *de novo* review of all of the documents that have been filed in the case, including the Report and Recommendation and Plaintiff’s Objection to the Report and Recommendation, the following order is entered:

AND NOW, this 21st day of October, 2010, it is HEREBY ORDERED, ADJUDGED AND DECREED that the Plaintiff William Carson Thomas’s Complaint [Doc. #1] is DISMISSED for failure to prosecute.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Report and Recommendation [Doc. #3] is ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Clerk of Court shall
mark this case CLOSED.


Maurice B. Cohill, Jr.
Senior United States District Judge

cc: William Carson Thomas
HG8685
SCI Rockview
P.O. Box A
Bellefonte, PA 16823